

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 25030 of 2004

Between:

P.Venkataswamy Naidu, s/o late P.Krishnam Naidu,
PC No.850820578, C-99, Battalion RAF/CRPF, Hakimpet,
Secunderabad-78 Ranga Reddy Dist.,

..... PETITIONER

AND

1 The Commandant, C-99, Battalion, RAF/CRPF, Hakimpet,

Secunderabad-78.

2 The Officer Commanding, C-99 Battalion, RAF/CRPF Hakimpet,

Secunderabad-78.

3 Mrs.P.Chandra Kalavathi, w/o P.Venkataswamy Naidu,
14-84-1, Shop Street, Puttur-517583, Chittoor District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly a writ of mandamus, declaring the impugned proceedings No.J.II-1/2004/EC.II-99 dt.24-12-2004 for recovering Rs.6,000/- per month without affording any opportunity to the petitioner, as illegal, arbitrary and violation of principles of natural justice and consequently direct the respondents 1 and 2 not to recover Rs.6,000/- p.m., from December, 2004 onwards, since the application filed by the petitioner is pending adjudication in the Court below.

Counsel for the Petitioner: MR.G.DASARADHA RAMI REDDY

**Counsel for the Respondents 1 and 2: MR.PETTEMRAJAIAH FOR RMAPP-
1&2**

Counsel for the Respondent No.3: None appeared

The Court at the stage of admission made the following:

ORDER:

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This writ petition is filed by the petitioner aggrieved by the proceedings of the first respondent dated 24-12-2004 by which a sum of Rs.6,000/- was ordered to be recovered from out of the salary of the petitioner. According to the petitioner the said action of the first respondent is illegal and without jurisdiction.

2. It is stated that the third respondent is the wife of the petitioner and she filed a suit in O.S.No11 of 2003 on the file of the Senior Civil Judge, Puttur, seeking a decree against the petitioner and in favour of the third respondent and her two minor children. The Court, however, by a judgment and decree dated 17-09-2004 granted Rs.6,000/- per month to the petitioner and two minor children. Thereafter, she made representation to the respondents through an Advocate about the decree obtained by her against the petitioner. Though there was no attachment order, basing on the representation, the first respondent passed an order dated 24-12-2004 directing to deduct Rs.6,000/- per month. Aggrieved by that, the petitioner has come up with the present writ petition.

3. A counter is filed on behalf of the respondents stating that the order passed on 24-12-2004 has already been revised on 27-12-2004 directing the second respondent not to recover the maintenance amount till the receipt of the attachment order from the Court. Therefore, it is stated that the order dated 24-12-2004 is not subsisting.

4. At the time of hearing, however, the learned counsel appearing for the petitioner sought to contend that as such an illegal order has been passed and salary due to the petitioner for the month of December 2004 was not paid, therefore, appropriate orders are to be passed against the first respondent

imposing costs.

5. After hearing the learned counsel for the petitioner and considering the counter filed by the respondents, since the impugned order has already been cancelled by the first respondent himself, no relief is required to be granted against the impugned order. But, however, as it is stated that the salary for the month of December 2004 was not paid, the respondents 1 and 2 are directed to release the salary, if not already released and paid to the petitioner, within a period of two weeks from the date of the receipt of a copy of this order.

6. The writ petition is accordingly disposed of. No order as to costs.

S.ANANDA REDDY, J

07th June, 2005

SKM

To

1 The Commandant, C-99, Battalion, RAF/CRPF, Hakimpet,

Secunderabad-78.

2 The Officer Commanding, C-99 Battalion, RAF/CRPF Hakimpet,

Secunderabad-78.

3 2 CD copies

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